

A modest proposal: An explicit “Energy Efficiency Compact”

- Modeled after the implicit “regulatory compact” between a franchised utility and its regulator (or its customers?), described by Scott Hempling as:
 - “[T]he regulator grants the company a protected monopoly, essentially a franchise, for the sale and distribution of electricity or natural gas to customers in its defined service territory. In return, the company commits to supply the full quantities demanded by those customers at a price calculated to cover all operating costs plus a ‘reasonable’ return on the capital invested in the enterprise.”
- Based on the premise that when serving as EE program administrators, the utilities are acting outside their utility franchise and thus the regulatory compact does not apply.

The basic bargain

- Stakeholders, and presumably also the Commission, agree that the state's electric and natural gas utilities will serve as the primary administrators of ratepayer-funded energy efficiency programs for the foreseeable future.
 - Possible exceptions? Room for discrete carve-outs of individual programs?
- The utilities explicitly acknowledge that delivering ratepayer-funded energy efficiency is (per RSA 374-F) an adjunct to, but not contained within, the rights and obligations of their utility franchises.
- The utilities agree to comply with certain obligations in exchange for maintaining their status as program administrators.

Compact Obligations of Utilities (Part 1)

- All utility EE roles and services are subject to standard regulatory constraints such as the provision of least-cost services, the used-and-useful requirement, and the requirement to incur costs prudently.
- Acknowledgement that the NHSaves brand is public property, developed and promoted at ratepayer expense, and does not belong to the utilities.
- Commitment to work in good faith with an “enhanced stakeholder” board, which advises and collaborates with the utilities.
- Acknowledgement that the EERS programs do not necessarily constitute the full extent to which utilities might be required to pursue EE and demand-side management generally pursuant to the requirements of the LCIRP statute (or successor).
- Acknowledgement that customers own their EE data and are entitled to privacy protections as well as meaningful opportunities to access the data and authorize its transmission to third parties.

Compact Obligations of Utilities (Part 2)

- Agreement to pursue the state policy objective of ensuring that low income customers are provided aggressive services that, at a minimum, are commensurate with their share of population and usage of electricity and natural gas.
- Affirmative duty to advocate in all available forums (PUC, General Court, NEPOOL, policy summits, etc.) for programs conducive to the deployment of all cost effective energy efficiency.
- No use of SBC/LDAC money to promote individual utility brands.
- No public claims that utilities are “investing” in EE since no utility capital is at risk.

Compact Obligations of Utilities (Part 3)

- Commitment to pursue EE aggressively in New Hampshire so that the state's ACEEE scorecard ranking is competitive with that of the other New England states.
- Utilities may pursue lost-revenue adjustment mechanisms, but this is not a guaranteed part of the compact and such mechanisms must be
 - Based on real and verifiable (not imaginary or presumed) lost revenue
 - Symmetrical, so that windfall (i.e., unanticipated) revenue results in downward adjustment.
- *Castor canadensis* named the official totem animal of NH Saves